

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

MAGNUM MINERALS, LLC, MAGNUM BLUE RIBBON FEEDS, INC., GEARN OFFSHORE, INC., AND TIM A. GEARN, Individually and on Behalf of Others Similarly Situated,

Plaintiffs,

v.

NO. 02:13-CV-00103

HOMELAND INSURANCE COMPANY OF NEW YORK, MARK COLLIER, CONSUELO AYALA, Individually and as the Representative of the ESTATE OF PEDRO MEJIA BELTRAN and as Next Friend and Natural Mother of Minors, EMA, JYMA, AND CBDM, ELGIN B. ALLEN, JR., AIM ASSOCIATION INSURANCE MANAGEMENT, INC., TERRY M. FERRELL, ONEBEACON INSURANCE GROUP, ONEBEACON ACCIDENT GROUP, ONEBEACON AMERICAN INSURANCE COMPANY, ONEBEACON INSURANCE COMPANY, AND TRADERS & GENERAL INSURANCE COMPANY,

Defendants.

JOINT REPORT CONCERNING SETTLEMENT

TO THE HONORABLE MARY LOU ROBINSON, UNITED STATES DISTRICT JUDGE:

The Parties submit this Joint Report Concerning Settlement and respectfully show the

Court the following:

1. This lawsuit involves an insurance dispute related to a workplace death case pending in Deaf Smith County, Texas, styled *Consuelo Ayala, Individually and as Representative*

of the Estate of Pedro Mejia Beltran and as Next Friend and Natural Mother of Minors, EMA and JYMA and CBM v. Magnum Minerals, LLC, et al., Cause No. CI-11B-012, in the 222nd District Court in and for Deaf Smith County, Texas (“state court proceeding”).

2. CONSUELO AYALA, Individually and as the Representative of the ESTATE OF PEDRO MEJIA BELTRAN and as Next Friend and Natural Mother of Minors, EMA, JYMA, AND CBDM (“Mejia Parties”), are nominal parties in this lawsuit. These nominal parties have neither asserted claims in this lawsuit nor had claims asserted against them in this lawsuit. As reported by the mediator, Dirk Murchison, the parties settled all disputes between them in this lawsuit and in the state court proceeding. See Doc. 81. By virtue of this settlement, the state court proceeding has also been settled, and this was reported to Judge Roland Saul.

3. Settlement agreements are being prepared in both the state court proceeding and in this proceeding.

4. Dean Boyd has been appointed as a guardian ad litem in the state court proceeding to represent the interests of the minors. A prove-up hearing in the state court proceeding is scheduled for September 30, 2013 at 1:30 p.m.

5. Respectfully, the parties to this lawsuit believe that this Honorable Court does not have jurisdiction over the claims asserted in the state court proceeding against the Magnum parties, and thus do not intend to request approval of that settlement. But because the minors are parties in this lawsuit, and because the settlement of this lawsuit will include a release by the minors of any and all claims they have or might have against the insurance company defendants and the insurance agent defendants, the parties intend to request this Court to approve the settlement of this lawsuit. As noted above, the minors’ settlement of the

state court proceeding will be proven up in the state court proceeding. It appears to all defendants, except the Mejia Parties, that a guardian ad litem also should be appointed in this lawsuit because the parties' settlement of this lawsuit requires the minors to release all claims they have or might have against such defendants. However, the defendants' research on this issue is not conclusive. The parties are in agreement that it is proper to request the Court's approval of the settlement in this lawsuit, but request the Court's guidance as to whether this Court prefers to appoint a guardian ad litem and conduct a prove-up hearing on the settlement of this lawsuit as it affects the minors. If the Court believes the appointment of a guardian ad litem is appropriate, they recommend appointment of Dean Boyd, who also is licensed before this Court.

DATED: September 17, 2013.

Respectfully submitted,

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